



Washington State Department of  
**Labor & Industries**

DRAFT

## Construction Contractors: Steps for Success

A guide to help contractors navigate the rules, save time and avoid the most common problems encountered by new companies.



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# General Guidance for all Contractors

## Keep your registration current

- ◆ Know your registration renewal date.
- ◆ Make sure your insurance and bond carriers give L&I your proof of insurance and proof of bonding. You can't renew without them.
- ◆ Remember, you must be a registered contractor to perform, advertise, offer or submit a bid to:
  - ◇ Construct, alter or repair structures
  - ◇ Consult or serve as a superintendent on construction projects
  - ◇ Add to or subtract from real property
  - ◇ Improve, move, wreck or demolish real property
  - ◇ Develop residential property for sale
  - ◇ Install cabinets or remove trees
  - ◇ If you buy, fix up and sell homes known as "flipping"

Save time by renewing online. Go to [www.Lni.wa.gov/Contractors](http://www.Lni.wa.gov/Contractors) and click on "Registering as a Contractor."

## Specialty contractor? Know your restrictions

- ◆ Do not bid for services you're not registered to provide.
- ◆ Do not subcontract to others unless your specialty job makes it necessary.
  - ◇ Examples of proper specialty contractor subcontracting:
    - ◇ An electrician moves an outlet when the cabinets you install block the outlet.
    - ◇ A plumber reinstalls a toilet after you tile the bathroom.
- ◆ Understand what's included in your specialty. See specialty descriptions by going to [www.Lni.wa.gov/Contractors](http://www.Lni.wa.gov/Contractors) and clicking on "Registering as a Contractor," or search the Washington Administrative Code for WAC 296-200A-016.

**Violations cost money**

Penalty for working outside your specialty, breaking advertising rules or being caught working while your registration is expired or suspended: \$1,000 fine on the first offense.

## Follow Contractor Advertising Rules

- ◆ The business name in your advertising **must** match your contractor registration name.
  - ◇ For instance, if you're registered as *Jane Doe Construction*, advertise as *Jane Doe Construction*, don't advertise as *Jane Doe Homes*.
- ◆ If you advertise under different names, you must register each name.
- ◆ You must display your contractor registration number on any item you use to solicit business from a consumer, including business cards, brochures, pens, magnets, flyers, ads, bids and contracts.
- ◆ Don't say you're licensed, bonded and insured in ads. All legal contractors are!
- ◆ Your website and ads should include only the services you're registered to provide.

# Tools to Help Consumers Make Informed Hiring Choices

## Free Contractor Marketing Cards

This card helps legitimate contractors educate consumers on Washington registration requirements to help them Hire Smart.

Download it for free by going to [www.Lni.wa.gov/ContractorCard](http://www.Lni.wa.gov/ContractorCard). Fill it out on your desktop or mobile device and hit print.



I'm a registered contractor with the State of Washington.

Registered business name \_\_\_\_\_

Contractor Registration # \_\_\_\_\_

WA Business License # (UBL) \_\_\_\_\_

Washington state law requires contractors to be registered.

Check me out! [ProtectMyHome.net](http://ProtectMyHome.net)  
Or call L&I: 1-800-647-0982

 Washington State Department of Labor & Industries

## Consumer Education Tools

L&I produces several publications to help consumers make hiring smart easier. We will provide copies to you at no cost to distribute to potential customers. Publications include:

- ◆ Hiring a contractor, remodeler or handyman
- ◆ Hire Smart Worksheet
- ◆ Hire Smart Plumber Worksheet
- ◆ Facts About Construction Liens
- ◆ Find these and more at [www.protectmyhome.net](http://www.protectmyhome.net)

## Before You Start the Job

Notify customers of your bond and your right to file a lien

- ◆ Before you begin jobs valued at more than \$1,000 (including materials and labor), you must provide your customers a “notice to customer” disclosure statement. This gives customers notice of your bond and your right to file a lien. Failure to do so can result in a \$500 fine on the first offense.
- ◆ If you don't get paid, you can place a lien on a customer's property.
- ◆ A sample form is included on page 9 in this brochure. You also may download a fillable copy by going to [www.Lni.wa.gov/ModelDisclosureStatement](http://www.Lni.wa.gov/ModelDisclosureStatement).
- ◆ Keep a signed copy for your records for 3 years. You may scan and keep it as an electronic file if you like.
- ◆ For more information on liens, go to [www.Lni.wa.gov/Forms](http://www.Lni.wa.gov/Forms) and search for *Facts About Construction Liens*. You should learn more about the lien laws in Washington by reading and understanding; RCW 60.04.

It's just good business. Resolve disputes with customers, subcontractors and suppliers quickly.

Lawsuits against contractors and their bonds, whether valid or not, are posted on L&I's website where potential customers can see them.

If you can't reach an agreement, consider using dispute resolution.

It's a free or low-cost alternative to going to court. For information, go to: [www.Lni.wa.gov/ContractorDisputeResolution](http://www.Lni.wa.gov/ContractorDisputeResolution).

Be aware: Subcontractors can file lawsuits against the general contractor's bond, but generals can't file against a subcontractor's bond.



# You're the Boss: Hiring Workers

## Register as an Employer

You can do this very simply through Washington's Business Licensing Service at <http://bls.dor.wa.gov/file.aspx>. Registration will lead to creation of a workers' compensation insurance account and a state unemployment insurance account.

If you noted that you would be hiring employees when you applied for your Washington Business License, you should be receiving information very soon from L&I regarding your workers' compensation rates and from Employment Security regarding your unemployment insurance rate.

### Required posters

L&I's workplace posters are *free* at any L&I office or available for download at [www.Lni.wa.gov/RequiredPosters](http://www.Lni.wa.gov/RequiredPosters).

All posters are available in Spanish.

Consider anyone who works for you an **employee** – even if it's just for a few days. This includes friends, family and casual labor, whether you pay them in cash or in trade. You must register as an employer and follow employment laws. See [www.bizguide.wa.gov](http://www.bizguide.wa.gov), "Start your business" chapter.

**Exceptions:** Spouses of sole proprietors don't have to be covered with workers' compensation insurance. People you hire through a registered employment agency such as Labor Ready, Kelly Services, etc., are not your employees for employment tax purposes.

## Learn and Follow Wage and Hour Requirements

Know the employment regulations, including overtime, breaks and requirements to display workplace posters. For details, see [www.bizguide.wa.gov](http://www.bizguide.wa.gov), "Start your business" chapter.

- ◆ Pay workers at least minimum wage, and time-and-a-half for hours in excess of 40 in a work-week (see [www.Lni.wa.gov/Wages](http://www.Lni.wa.gov/Wages)).
- ◆ Provide at least one paid 10-minute break for every 4 hours of work, and at least a 30-minute meal period for every 5 hours of work. Meal periods can be unpaid if the employee is completely relieved of duty.
- ◆ If you have workers under the age of 18, learn the work restrictions related to your industry, get a minor work permit endorsement, and obtain a completed authorization form for each worker (see [www.Lni.wa.gov/TeenWorkers](http://www.Lni.wa.gov/TeenWorkers)).
- ◆ Don't deduct anything from paychecks that isn't authorized by law or requested in writing by your employee.



# Are They Workers or Independent Contractors?

## Why It's Important to Know the Difference

When you hire individuals, even those whose businesses are licensed or registered, you must provide workers' compensation insurance for them unless they meet L&I's independent contractor test.

◆ Here's the first part of the test:

- ◇ If your subcontractor brings their own employees to the job, or
- ◇ If your subcontractor brings heavy equipment that they operate, you're likely not required to cover them.
- ◇ If they meet those conditions, keep the verifying documents for at least 4 years. And remember, you have a legal requirement to keep your job site safe for employees (yours or those of a temporary employment agency), subcontractors and independent contractors.

**You probably didn't know!**

Definitions of an independent contractor vary by state agency and the federal government. The Internal Revenue Service (IRS) might consider a subcontractor to be an independent contractor, but L&I might not.

◆ What if my subcontractors don't bring employees or heavy equipment to the job?

- ◇ You must cover them for workers' comp insurance unless they meet a strict legal test. This seven-part test includes such conditions as whether your contractor is an established business, works without your direction, whether it has an independent location, and whether it files federal business income tax. To read more about this test, see: [www.Lni.wa.gov/IndependentContractor](http://www.Lni.wa.gov/IndependentContractor).

## Keep Your Workplace Safe

Whether you have employees or subcontractors, you must keep your job site free from recognized hazards that may cause injury or death. Know the occupational safety and health rules that apply to your workplace, including requirements for:

- ◆ A written safety plan—also called an accident prevention plan—tailored to your business.
- ◆ Safety training and protective equipment for employees.
- ◆ A safety meeting before starting each construction project and weekly meetings once the project begins.
- ◆ Staff signing in to safety meetings to document their attendance.
- ◆ Retaining meeting agendas, notes and attendance records.

Find safety information, resources and arrange a free workplace safety consultation at [www.Lni.wa.gov/Safety](http://www.Lni.wa.gov/Safety) and click on "Get Started with Safety & Health."

# Keep Your Workers' Comp Coverage Costs Low

## Workers' compensation insurance: Tips to improve accounting and lower your rates

Ensure the risk classifications that L&I assigns your business accurately reflect your workers' actual job activities. Check your risk classes at [www.Verify.Lni.wa.gov](http://www.Verify.Lni.wa.gov). If your risk classes aren't accurate, contact your L&I account manager.

- ◆ Create good employee and payroll records. Timesheets should show dates, times and worker activities (if your business has more than one risk class).
- ◆ Keep timesheet and other payroll records for at least 4 years.
- ◆ Encourage injured employees to get medical care for injuries. It's against the law to discourage an employee from filing a workers' comp claim.
- ◆ Operate a safe workplace and bring injured workers back to work as soon as medically appropriate.

Learn how to keep your rates as low as possible at [www.Lni.wa.gov/ControlMyRates](http://www.Lni.wa.gov/ControlMyRates).

## What is Prime Contractor Liability?

If your subcontractor meets the independent contractor test because they bring workers to the job, but doesn't pay workers' comp premiums? You could be held liable for those premiums?

What should I do to avoid getting stuck with my subcontractor's workers' comp premiums? At a minimum:

- ◆ Before hiring subcontractors, confirm their workers' comp accounts are in good standing.
- ◆ If their accounts are in good standing, print and keep the "Certificate of Workers' Comp Coverage" documentation for 4 years .
- ◆ Submit a "Track this Contractor" request on the site. This will track their workers comp and registration status for you for one year.
- ◆ Check their accounts prior to making final payments to ensure their account is still current.

You can do all this at [www.Verify.Lni.wa.gov](http://www.Verify.Lni.wa.gov).

For more tips, go to [www.Lni.wa.gov](http://www.Lni.wa.gov) and search for *Prime Contractor Liability: You might have to pay someone else's workers' comp premiums*.

# Planning to bid on public works projects?

## Learn the requirements for paying the prevailing wage

Contractors on publicly funded projects must pay employees the “prevailing wage” for the specific trade or occupation in that particular county, as determined by L&I. Exception: If the project is entirely paid with federal funds, then Federal prevailing wage rates apply.

Employers must provide overtime pay for work beyond 8 hours a day, rather than 40 a week.

You will be required to file “intents & affidavits.” An “intent” is your intention to pay prevailing wages before you begin the job. Once the job is done, an “affidavit” shows what you paid to workers.

A technical specialist is available to answer questions at 360-902-5335 or [pw1@Lni.wa.gov](mailto:pw1@Lni.wa.gov).

Learn the requirements and rates for paying prevailing wage on public works projects at: [www.Lni.wa.gov/PrevailingWage](http://www.Lni.wa.gov/PrevailingWage).

## Free Education and Training Opportunities

L&I wants your business to be a success

Our agency partners with other state and local governments, business industry associations, not-for-profit entities and consumer groups to provide free all-day training courses across the state called Contractor Training Days. Learn:

- ◆ How to create an accident prevention plan (required for every contractor)
- ◆ How to properly pay and collect sales and other state taxes
- ◆ About workers’ comp insurance and what to do if you have a worker hurt on the job
- ◆ About registration requirements and special certifications such as lead and asbestos abatement
- ◆ How to bid effectively, how to market your business, and what information to include in your construction contract
- ◆ And a whole lot more



Get registration information and the list of upcoming classes at: [contractors.lni.wa.gov](http://contractors.lni.wa.gov) then click on trainings and workshops





This contractor is registered with the state of Washington, registration no. \_\_\_\_\_, and has posted with the state a bond or deposit of \_\_\_\_\_ for the purpose of satisfying claims against the contractor for breach of contract including negligent or improper work in the conduct of the contractor's business. The expiration date of this contractor's registration is \_\_\_\_\_.

**THIS BOND OR DEPOSIT MIGHT NOT BE SUFFICIENT TO COVER A CLAIM THAT MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT.**

This bond or deposit is not for your exclusive use because it covers all work performed by this contractor. The bond or deposit is intended to pay valid claims up to \_\_\_\_\_ that you and other customers, suppliers, subcontractors, or taxing authorities may have.

**FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR CONTRACT.**

You may withhold a contractually defined percentage of your construction contract as retainage for a stated period of time to provide protection to you and help insure that your project will be completed as required by your contract.

**YOUR PROPERTY MAY BE LIENED.**

If a supplier of materials used in your construction project or an employee or subcontractor of your contractor or subcontractors is not paid, your property may be liened to force payment and you could pay twice for the same work.

**FOR ADDITIONAL PROTECTION YOU MAY REQUEST THE CONTRACTOR TO PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FROM EACH SUPPLIER OR SUBCONTRACTOR AT YOUR PROJECT.**

The contractor is required to provide you with further information about lien release document if you request it. General information is also available from the state Department of Labor and Industries.

# Still Have Questions?

## Check out our websites:

- ◆ **Report fraud:** [www.Fraud.Lni.wa.gov](http://www.Fraud.Lni.wa.gov) (or call 1-888-811-5974)
- ◆ **Washington Small Business Guide.** Learn the essentials for starting a business in Washington state: [www.bizguide.wa.gov](http://www.bizguide.wa.gov).
- ◆ **Required workplace posters:** Free at [www.Lni.wa.gov/RequiredPosters](http://www.Lni.wa.gov/RequiredPosters) or from any L&I office. All posters are available in Spanish.
- ◆ **Contractor registration law.** Read it by going to: [www.Lni.wa.gov](http://www.Lni.wa.gov), click on “Find a Law or Rule,” and search for RCW 18.27, or call L&I toll-free at 1-800-647-0982
- ◆ **Contractor information at L&I.** Go to: [www.Lni.wa.gov/Contractors](http://www.Lni.wa.gov/Contractors) or call L&I toll-free at 1-800-647-0982.
- ◆ **Prevailing Wage.** Requirements for paying prevailing wage on public works projects: <http://www.Lni.wa.gov/PrevailingWage>.
- ◆ **Workers’ basic workplace rights.** Covers minimum wage, meal and rest breaks and overtime requirements: [www.Lni.wa.gov/WorkPlaceRights](http://www.Lni.wa.gov/WorkPlaceRights).
- ◆ **Work restrictions for teens under age 18.** Certain jobs, especially in construction, cannot be performed by minors: [www.Lni.wa.gov/TeenWorkers](http://www.Lni.wa.gov/TeenWorkers).
- ◆ **Employment Security Department:** Website: [www.esd.wa.gov](http://www.esd.wa.gov) or Toll-free telephone: 1-877-872-5627
- ◆ **Department of Revenue:** Website: [www.dor.wa.gov](http://www.dor.wa.gov) or Toll-free telephone: 1-800-647-7706
- ◆ **Department of Licensing:** Website: [www.dol.wa.gov](http://www.dol.wa.gov) or Telephone: 360-664-1400
- ◆ **Secretary of State:** Website: [www.secstate.wa.gov](http://www.secstate.wa.gov) or Telephone: 360-725-0377

## Visit your local L&I office.

For maps and directions visit: [www.Offices.Lni.wa.gov](http://www.Offices.Lni.wa.gov)

<b>Region 1</b>	<b>Region 2</b>	<b>Region 3</b>
<b>Northwest Washington</b>	<b>King County</b>	<b>Pierce County/Peninsula</b>
Bellingham.....360-647-7300	Bellevue.....425-990-1400	Bremerton.....360-415-4000
Everett.....425-290-1300	Seattle.....206-515-2800	Port Angeles.....360-417-2700
Mount Vernon.....360-416-3000	Tukwila.....206-835-1000	Tacoma.....253-596-3800
<b>Region 4</b>	<b>Region 5</b>	<b>Region 6</b>
<b>Southwest Washington</b>	<b>Central Washington</b>	<b>Eastern Washington</b>
Aberdeen.....360-533-8200	East Wenatchee...509-886-6500	Pullman.....509-334-5296
Kelso.....360-575-6900	Kennewick.....509-735-0100	Spokane.....509-324-2600
Tumwater.....360-902-5799	Moses Lake.....509-764-6900	
Vancouver.....360-896-2300	Yakima.....509-454-3700	